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FEDERAL TRADE COMMISSION
Agency Information Collection Activities;
Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (“FTC” or “Commission”).

ACTION: Notice.

SUMMARY: The FTC intends to conduct a survey of consumers to advance its understanding of the prevalence of consumer fraud and to allow the FTC to better serve people who experience fraud. The survey will be a follow-up to three previous surveys, the most recent of which was conducted between November 2011 and February 2012. Before gathering this information, the FTC is seeking public comments on its proposed consumer research. The information collection requirements described below are being submitted to the Office of Management and Budget (“OMB”) for review, as required by the Paperwork Reduction Act (“PRA”).

DATES: Comments on the proposed information requests must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: “Consumer Fraud Survey 2016: Paperwork Comment, FTC File No. P105502” on your comment and file the comment online at <https://ftcpublic.commentworks.com/ftc/fraudsurvey2016> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the

following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Keith B. Anderson, Economist, Bureau of Economics, Federal Trade Commission, 600 Pennsylvania Avenue NW, Mail Stop H-238, Washington, DC 20580, Telephone (202) 326-3428.

SUPPLEMENTARY INFORMATION:

Background: On March 31, 2016, the FTC sought comment on the information collection requirements associated with the proposed Fraud Survey (81 FR 18628). Three comments were received.¹ Pursuant to the OMB regulations, 5 CFR Part 1320, that implement the PRA, 44 U.S.C. 3501-3521, the Commission is providing this second opportunity for public comment. All comments should be filed as prescribed in the ADDRESSES section above, and must be received on or before [30 days after date of publication in the FEDERAL REGISTER].

As part of its consumer protection mission, the FTC has brought hundreds of cases targeting perpetrators of consumer fraud and has committed significant resources to educational initiatives designed to protect consumers against such fraud. In order to ensure that its efforts in fighting fraud are as effective as possible, the Commission would like to make certain that it has current data on the prevalence of various types of consumer fraud.

The Commission has conducted three previous surveys designed to estimate the prevalence of consumer fraud among U.S. adults. The most recent survey was conducted between November 2011 and February 2012. A report describing the findings of that survey – *Consumer Fraud in the United States, 2011: The Third FTC Survey* – was released in April

¹ The comments are available at <https://www.ftc.gov/policy/public-comments/initiative-658>.

2013 and can be found at https://www.ftc.gov/sites/default/files/documents/reports/consumer-fraud-united-states-2011-third-ftc-survey/130419fraudsurvey_0.pdf.²

The 2011 survey asked about consumers' experiences with 15 specific and two more general types of fraud during the previous year. Among frauds covered by the survey were the purchase of a weight-loss product that did not work as promised, paying money or making a required purchase to obtain a promised prize or lottery winnings that had never been received, and being billed for a buyers' club membership that a person had not agreed to purchase. Based on the survey results, during 2011, 25.6 million U.S. adults – 10.8 percent of the U.S. adult population – were victims of one or more of the frauds covered by the survey.

Among the 15 specific frauds included in the survey, the most frequently reported was the purchase of a weight-loss product that the seller falsely represented would allow the user to lose a substantial amount of weight easily or lose the weight without diet or exercise. The survey results suggested that during 2011 5.1 million consumers – 2.1 percent of the U.S. adult population – had tried such a product and found that they only lost a little of the weight they had expected to lose or failed to lose any weight at all.

Description of the Collection of Information and Proposed Use: The FTC proposes to conduct a telephone survey of 3,700 randomly-selected consumers nationwide age 18 and over – 100 in a pretest and 3,600 in the main survey – in order to gather specific information on the incidence of consumer fraud in the general population. As before, in order to obtain a more reliable picture of the experience of demographic groups that the earlier surveys found to be at an

² Each survey was conducted under OMB Control Number 3084-0125. The first consumer fraud survey was conducted in May and June of 2003. The results of that survey are reported in “Consumer Fraud in the United States: An FTC Survey” (<https://www.ftc.gov/sites/default/files/documents/reports/consumer-fraud-united-states-ftc-survey/040805confraudrpt.pdf>). The 2005 survey was conducted in November and December of 2005 and the findings of that survey are reported in “Consumer Fraud in the United States: The Second FTC Survey,” (<https://www.ftc.gov/sites/default/files/documents/reports/consumer-fraud-united-states-second-federal-trade-commission-survey-staff-report-federal-trade/fraud.pdf>).

elevated risk of becoming victims of consumer fraud – including Hispanics and African Americans – the survey may oversample members of these groups. All information will be collected on a voluntary basis, and information on the identities of participants will not be collected. Subject to OMB approval for the survey, the FTC plans to contract with a consumer research firm to identify consumers and conduct the survey. The results will assist the FTC in determining the incidence of consumer fraud in the general population and whether the type or frequency of consumer fraud is changing. This information will inform the FTC about how best to combat consumer fraud.

The FTC's proposed sample size is similar to that used in the previous surveys. Many of the questions will be similar to the 2005 and 2011 surveys so that the results of the proposed survey can be compared to those from the earlier ones.³ The FTC may choose to conduct another follow-up survey in approximately five years.

Estimated hours burden: The FTC will pretest the survey on approximately 100 respondents to ensure that all questions are easily understood. This pretest will take approximately 20 minutes per participant on average and 33 hours as a whole (100 respondents x 20 minutes each.). Answering the final survey will require approximately 15 minutes per respondent on average and 900 hours as a whole (3,600 respondents x 15 minutes each). Additionally, 100 interviews will be conducted with non-respondents – those who refused to participate or those with whom we did not have contact. These interviews will take approximately 5 minutes each, for a total burden of 8 hours. Thus, cumulative total burden will be approximately 941 hours.

Estimated Cost Burden: The cost per respondent should be negligible. Participation is voluntary and will not require start-up, capital, or labor expenditures by respondents.

³ The survey instrument for the 2011 Consumer Fraud Survey is included in the 2013 report as Appendix D.

Analysis of Comments Received: As noted above, three comments were received in response to the March 31, 2016 Federal Register Notice. A comment from Douglas M. Brooks, dated June 13, 2016, suggested that the survey should be designed to “reflect the incidence of fraud in vulnerable populations, including non-English speaking persons and undocumented residents.” As in prior surveys, the proposed survey will be conducted in both English and Spanish. In addition, questions are being added to the survey to determine whether the person being interviewed has recently immigrated to the United States.

A comment from Vin Dwyer, dated March 26, 2016, asked that the survey be structured to gather information about fraud that is the result of telemarketing calls to landline phones. As have prior surveys, the proposed survey will collect information about experiences of fraud that are promoted by a wide variety of communication methods, including landline telephone.

A comment from William Keep, John Breyault, and Peter Vander Nat (“Keep et al.”), dated June 11, 2016, requested greater clarity about changes in the data regarding victims of pyramid schemes. The commenters noted that a change was made in the definition of who was counted as being a victim of a pyramid scheme between the first FTC fraud survey, which was conducted in 2003, and the second survey, conducted in 2005. As they noted, this change and a discussion of the impact on the resulting estimates was discussed in the 2007 report that described the findings of the second survey. However, this change was not noted in the subsequent report on the 2011 survey, and the commenters were concerned that someone who looked only at the first and third reports might miss the change. While it seems somewhat unlikely that someone reading any report from the currently proposed survey would simply compare those figures to the first survey, which was conducted more than a dozen years before the proposed one, the Commission will seek to make clear that changes have been made.

Keep et al. also point out that a significant percentage of consumers only have cell phones and that it may be necessary to include calls to cell phones in conducting a telephone survey. Indeed, the 2011 survey included cell phones in the sample design. Moreover, in the proposed survey, 70 percent of interview calls will be to consumers using cell phones.

Keep et al. also express concern that some researchers who have used the information in the prior surveys have failed to note when differences between survey results are not statistically significant. When the FTC has made such comparisons, it has indicated whether the differences are significant or not and it will endeavor to do so for any future reports.

Finally, Keep et al. express concern about the FTC's discontinuing, after the initial 2003 survey, to collect and report on whether victims of the frauds covered by the surveys have complained about their experiences. In fact, FTC staff have collected data on complaining behavior in each of the later surveys and will do so for the proposed survey. Unfortunately, FTC staff have not had sufficient time to analyze these data since the initial report but hope to do such an analysis in the future.

Request for comment: You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [insert date 30 days from FEDERAL REGISTER date of publication]. Write "Consumer Fraud Survey 2016: Paperwork Comment, FTC File No. P105502" on your comment. Your comment – including your name and your state – will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment doesn't include any sensitive personal information, such as anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which is . . . privileged or confidential," as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information, such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names. If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you must follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/fraudsurvey2016>, by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that website.

If you file your comment on paper, write “Consumer Fraud Survey 2016: Paperwork Comment, FTC File No. P105502” on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street, NW, Washington, D.C. 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395-5806.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [insert date 30 days from FEDERAL REGISTER date of publication]. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <http://www.ftc.gov/ftc/privacy.htm>.

David C. Shonka
Acting General Counsel.
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